

IN-LIEU-FEE (ILF) PROJECT DATA WORKSHEET

DEP Invoice # 55

[Note: Will be filled in by ILF Administrator in Augusta]

Project name: Woodland Industrial Park

Applicant (s): Fundy Contractors

DEP/Corps permit #: L-21437-VP-E-N

[Note: Please attach a PDF copy of the permit]

ILF Contribution Amount: \$13,560

[Note: Please attach a PDF copy of the check]

Project address: Baileyville

[Note: Please attach a PDF map of project location]

Biophysical region: Maine Eastern Interior Subsection

Size of total impact subject to compensation: 113,000 square feet of buffer

Resources Impacted: *[The resource table on page 2 MUST be filled in with all resource types impacted, amounts and functions.]*

DEP/Corps Project manager: Maria Eggett

Note: The ILF Project Data Worksheet must be filled out by the PM within 3 days of receiving a contribution to the "Natural Resource Mitigation Fund" and faxed along with a copy of the check to James Cassida in Augusta at 592-1864. The distribution of ILF contributions is time sensitive.

The PM should also double check to make sure that the check has been routed to Augusta with the correct account number reference. The account # for the ILF program is 014.06A.1776.14

Resource(s) Impacted:

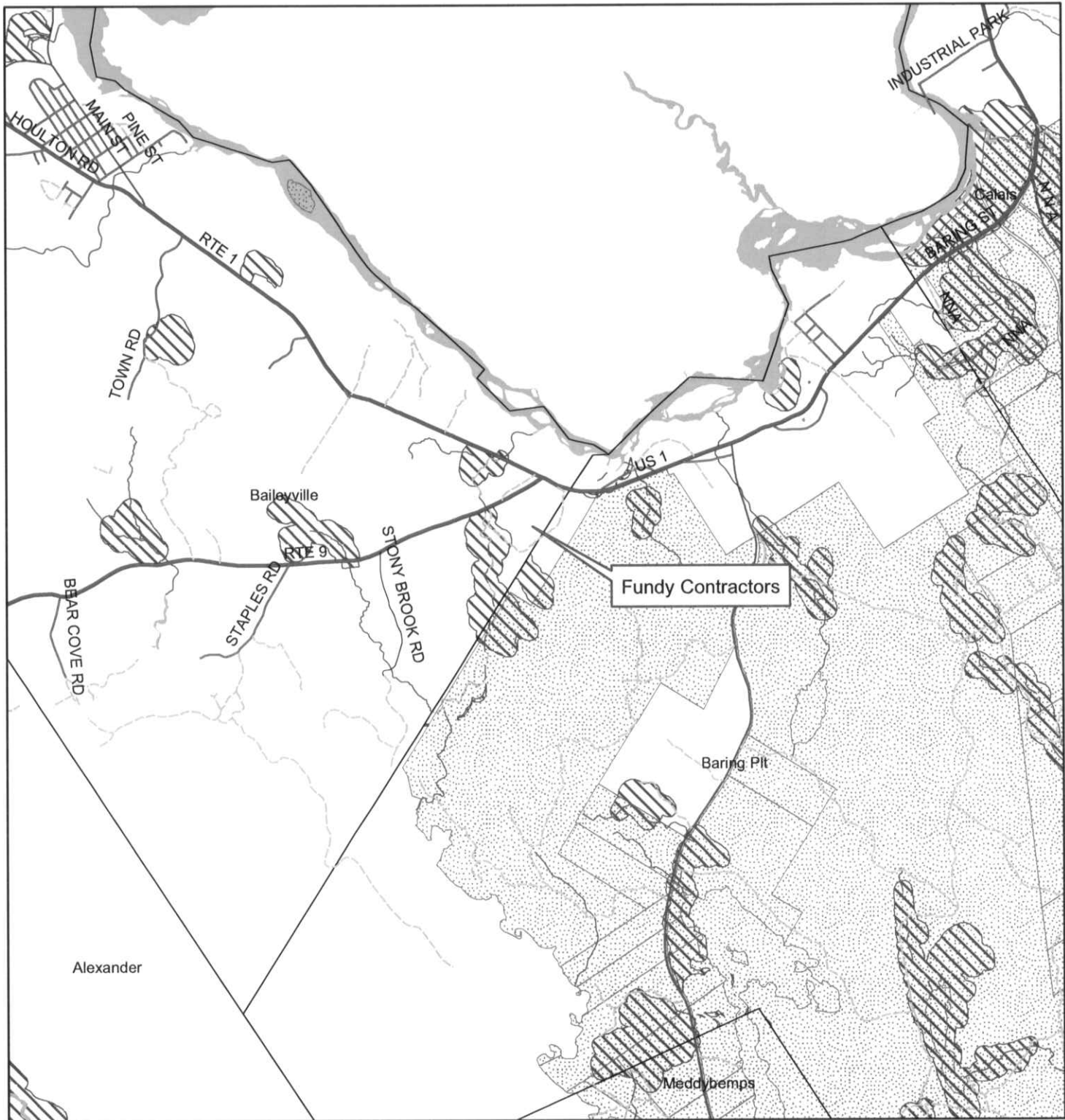
Resource Type: (Wetlands by NWI Type (PFO, PSS, M1, M2, E1, E2, etc), significant vernal pool (SVP), shorebird feeding & staging habitat (Shorebird), inland waterfowl & wading bird habitat (IWWH), tidal waterfowl & wading habitat (TWWH), and river, stream, or brook (RSB).

Wetland Functions & Values: Groundwater recharge/discharge (GWR); floodflow alterations (FF); fish & shellfish habitat (FSH); sediment toxicant retention (STR); nutrient removal (NR); production export (PE); sediment/shoreline stabilization (SS); wildlife habitat (WH); recreation (R); education/scientific value (ESV); uniqueness/heritage (UH); and visual quality/aesthetics (VQ).






Types of impacts: may include filling, dredging, vegetation conversion (e.g. forested to shrub/scrub), others.

Resource type (list all that apply)	Functions (for wetland impacts) (list all that apply, by resource type)	Type of Impact (by resource type)	Sq Feet Impacted (by resource type)
SVP (Buffer only)	WH	Commercial Lot Development	113,000 sf
Total square feet impacted			113,000 sf

Land Licensing Map



Legend

-  Inland_Waterfowl_Wader_Habitat_NRI
-  Tidal_Waterfowl_Wader_Habitat
-  Shorebird roosting area
-  Shorebird feeding area
-  Seabird_Nesting_Islands



1,500 750 0 1,500 Meters





STATE OF MAINE
Department of Environmental Protection

PAUL R. LEPAGE
GOVERNOR

JAMES P. BROOKS
ACTING COMMISSIONER

January, 2011

Fundy Contractors
P.O. Box 339
Calais, ME 04619

RE: Natural Resources Protection Act Application, Baileyville, #L-21437-VP-E-N

Dear Sir/Madam:

Please find enclosed a signed copy of your Department of Environmental Protection land use permit. You will note that the permit includes a description of your project, findings of fact that relate to the approval criteria the Department used in evaluating your project, and conditions that are based on those findings and the particulars of your project. Please take several moments to read your permit carefully, paying particular attention to the conditions of the approval. The Department reviews every application thoroughly and strives to formulate reasonable conditions of approval within the context of the Department's environmental laws. You will also find attached some materials that describe the Department's appeal procedures for your information.

If you have any questions about the permit, please get in touch with me directly. I can be reached at (207) 446-7120 or at maria.lentine-eggett@maine.gov.

Yours sincerely,

A handwritten signature in black ink that reads "Maria Eggett".

Maria Eggett, Project Manager
Division of Land Resource Regulation
Bureau of Land & Water Quality

pc: File

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST

BANGOR
106 HOGAN ROAD
BANGOR ME 04401
(207-941-4570 FAX 207-941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 764-3143

WEB SITE: WWW.MAINE.GOV/DEP



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

FUNDY CONTRACTORS
Baileyville, Washington County
VERNAL POOL BUFFER
L-21437-VP-E-N (approval)

) NATURAL RESOURCES PROTECTION
) SIGNIFICANT WILDLIFE HABITAT
) WATER QUALITY CERTIFICATION
) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Sections 480-A et seq. and Section 401 of the Federal Water Pollution Control Act, the Department of Environmental Protection has considered the application of FUNDY CONTRACTORS with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: In Department Order L-21437-NI-A-N, dated October 8, 2003, the Department approved the construction of a portion of the access road to the Woodland Commercial Park (Phase IA). In Department Order L-21437-NI-B-N, dated February 17, 2004, the Department approved the construction of a border crossing station by the U.S. Department of Homeland Security on a lot in the Park. In Department Order L-21437-39-C-N, dated June 13, 2005, the Department approved the construction of Phases IB and II in the Park, consisting of an extension of the access road to allow for development of Lots 3 through 6. Department Order L-21437-39-D-A, dated August 14, 2007, approved the combination of Lots 4 and 6, and the construction of a production warehouse.

B. Summary: After construction commenced on the combined Lots 4 and 6, a significant vernal pool was identified. The applicant proposes to complete the construction as approved in the Site Location of Development amendment. Approximately 113,000 square feet of vernal pool buffer will be impacted by the construction. No direct impacts to the pool are proposed. The project site is located on Industrial Park Road in the Town of Baileyville.

C. Current Use of the Site: The site of the proposed project contains a portion of the access road.

2. EXISTING SCENIC, AESTHETIC, RECREATIONAL OR NAVIGATIONAL USES:

In accordance with Chapter 315, Assessing and Mitigating Impacts to Scenic and Aesthetic Uses, the applicant submitted a description of the property and the proposed project. The applicant also submitted several photographs of the proposed project site.

The proposed project is not located in or on a scenic resource visited by the general public, in part, for the use, observation, enjoyment and appreciation of its natural and cultural visual qualities.

The proposed project is located within a partially developed industrial park and is compatible with the existing visual quality and landscape characteristics of the project area.

The Department did not identify any issues involving existing recreational and navigational uses.

The Department finds that the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses of the protected natural resource.

3. HABITAT CONSIDERATIONS:

The Maine Department of Inland Fisheries and Wildlife reviewed the proposed project and stated that the impacts are unavoidable. If no impact occurs to the vernal pool depression, no further recommendations are needed.

Prior to the start of construction, the boundaries of the vernal pool depression must be permanently marked on the ground. No disturbance within the depression must occur during or after construction.

The Department finds that the activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

4. WATER QUALITY CONSIDERATIONS:

In Department Order L-21437-39-D-A, an erosion and sediment control plan for the project was approved by the Department. All construction must adhere to the BMPs detailed in that plan.

The Department does not anticipate that the proposed project will violate any state water quality law, including those governing the classification of the State's waters.

5. SIGNIFICANT VERNAL POOL HABITAT:

The applicant proposes to alter 113,000 square feet of the 250-foot buffer for a significant vernal pool to construct a production warehouse.

The Department's Significant Wildlife Habitat Rules, Chapter 335, require that the applicant follow habitat management practices to the greatest extent possible. The habitat management practices consist of avoiding impact to the vernal pool depression, minimizing forest floor disturbance, and maintaining forest corridors and habitat around the depression.

A. Avoidance. The applicant does not propose any impact to the vernal pool depression. Due to the size of the approved facility in relation to the size of the lot and the large wetland on the lot, the project cannot be constructed without some impact to the vernal pool buffer.

B. Minimal Alteration and Habitat Maintenance. The applicant proposes to construct a production warehouse as approved in a previous Site Location of Development license. The project was proposed prior to the implementation of the vernal pool rules on September 1, 2007. Due to site constraints, including road and lot configuration, and on-site wetlands, the project cannot be reconfigured to provide an undisturbed 250-buffer for the vernal pool.

C. Compensation. In accordance with Chapter 335 Section 3(D)(1), compensation is required when the Department determines that an impact to significant wildlife habitat will cause habitat functions or values to be lost or degraded as identified by the Department. After considering several compensation options, the applicant elected to make a contribution into the In Lieu Fee (ILF) program of \$13,560.00 for 113,000 square feet of permanent impact to the vernal pool buffer at the project site. The ILF contribution has been received by the Department.

The Department finds that the applicant proposes to follow the habitat management practices to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project.

6. OTHER CONSIDERATIONS:

The Department did not identify any other issues involving existing scenic, aesthetic, or navigational uses, soil erosion, habitat or fisheries, the natural transfer of soil, natural flow of water, water quality, or flooding.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S.A. Sections 480-A et seq. and Section 401 of the Federal Water Pollution Control Act:

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life provided that the applicant meets the requirement of Finding 3.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.

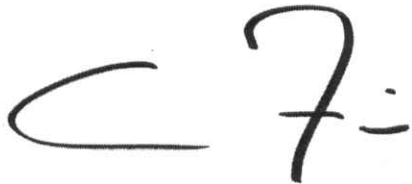
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in Title 38 M.R.S.A. Section 480-P.

THEREFORE, the Department APPROVES the above noted application of FUNDY CONTRACTORS to construct a production warehouse within 250-feet of a significant vernal pool, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. Standard Conditions of Approval, a copy attached.
2. The applicant shall take all necessary measures to ensure that its activities or those of its agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. Prior to the start of construction, the boundaries of the vernal pool depression shall be permanently marked on the ground. No disturbance within the depression shall occur during or after construction.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DEPARTMENT OF ENVIRONMENTAL PROTECTION



This permit has been digitally signed by Andrew C. Fisk on behalf of Acting Commissioner James Brooks. It is digitally signed pursuant to authority under 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date 2011.01.27 12:28:47 -05'00'

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES...

me/121437en/72722



Natural Resource Protection Act (NRPA) Standard Conditions

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCE PROTECTION ACT, TITLE 38, M.R.S.A. SECTION 480-A ET.SEQ. UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

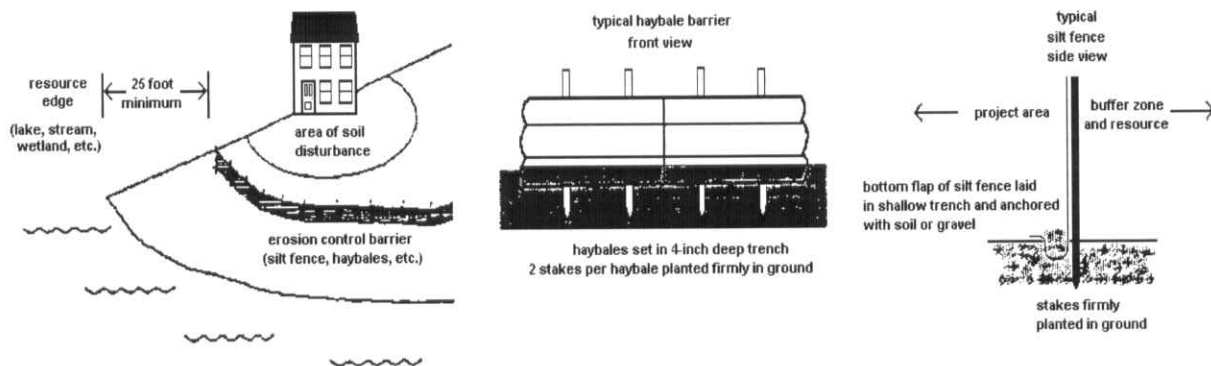
- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. Erosion Control. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.
- D. Compliance With Conditions. Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other the specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.
- E. Initiation of Activity Within Two Years. If construction or operation of the activity is not begun within two years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits shall state the reasons why the applicant will be able to begin the activity within two years form the granting of a new permit, if so granted. Reapplications for permits may include information submitted in the initial application by reference.
- F. Reexamination After Five Years. If the approved activity is not completed within five years from the date of the granting of a permit, the Board may reexamine its permit approval and impose additional terms or conditions to respond to significant changes in circumstances which may have occurred during the five-year period.
- G. No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- H. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- I. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Erosion Control for Homeowners

Before Construction

1. If you have hired a contractor, make sure you discuss your permit-by-rule with them. Talk about what measures they plan to take to control erosion. Everybody involved should understand what the resource is, and where it is located. Most people can identify the edge of a lake or river. However, the edges of wetlands are often not so obvious. Your contractor may be the person actually pushing dirt around, but you are both responsible for complying with the permit-by-rule.
2. Call around to find where erosion control materials are available. Chances are your contractor has these materials already on hand. You probably will need silt fence, hay bales, wooden stakes, grass seed (or conservation mix), and perhaps filter fabric. Places to check for these items include farm & feed supply stores, garden & lawn suppliers, and landscaping companies. It is not always easy to find hay or straw during late winter and early spring. It also may be more expensive during those times of year. Plan ahead -- buy a supply early and keep it under a tarp.
3. Before any soil is disturbed, make sure an erosion control barrier has been installed. The barrier can be either a silt fence, a row of staked hay bales, or both. Use the drawings below as a guide for correct installation and placement. The barrier should be placed as close as possible to the soil-disturbance activity.
4. If a contractor is installing the erosion control barrier, double check it as a precaution. Erosion control barriers should be installed "on the contour", meaning at the same level or elevation across the land slope, whenever possible. This keeps stormwater from flowing to the lowest point along the barrier where it can build up and overflow or destroy the barrier.



During Construction

1. Use lots of hay or straw mulch on disturbed soil. The idea behind mulch is to prevent rain from striking the soil directly. It is the force of raindrops hitting the bare ground that makes the soil begin to move downslope with the runoff water, and cause erosion. More than 90% of erosion is prevented by keeping the soil covered.
2. Inspect your erosion control barriers frequently. This is especially important after a rainfall. If there is muddy water leaving the project site, then your erosion controls are not working as intended. You or your contractor then need to figure out what can be done to prevent more soil from getting past the barrier.
3. Keep your erosion control barrier up and maintained until you get a good and healthy growth of grass and the area is permanently stabilized.



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's General Laws, 38 M.R.S.A. § 341-D(4), and its Rules Concerning the Processing of Applications and Other Administrative Matters (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.

6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.

7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5)

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials.

There is a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.

3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION: If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.

TOWN OF BAILEYVILLE

022903

-- A/P CHECK -- DATE 10/21/10

PAYEE: 1913 TREASURER, STATE OF MAINE

CHECK 22903

WRNT	DESCRIPTION-----	REFERENCE-----	CREDIT	-DISC-	-AMOUNT-
0039	PERMIT APPLICATION-FUNDY	PERMIT-FUNDY	0.00	0.00	13,767.00

Baileyville

AMOUNT- *****13,767.00

TOWN OF BAILEYVILLE
BAILEYVILLE, MAINE 04694

MACHIAS SAVINGS BANK
"THE TOTAL SERVICE BANK OF SUNRISE COUNTY"
WOODLAND OFFICE

52-7453
2112

022903


PAY

THIRTEEN THOUSAND SEVEN HUNDRED SIXTY-SEVEN AND 00/100*****
DATE 10/21/10 AMOUNT \$*****13,767.00
TO THE ORDER OF TREASURER, STATE OF MAINE

Robert W. Larkin MANAGER
John W. Larkin TREASURER

⑈022903⑈ ⑆21127453⑆ 806 0046010⑈

014 06A 1754 14 1442 EF05

TIMOTHY R. BROCHU 35 LORRAINE AVE. 989-9941 BREWER, ME 04412		8736 52-8849/2112	
		Date <u>11/19/10</u>	
Pay to the Order of <u>TREASURER STATE OF MAINE</u>		\$ <u>60</u>	
<u>Sixty Dollars</u>		<u>00</u> <u>100</u> Dollars	
INFINITY FEDERAL CREDIT UNION 193 Broad Street - Bangor, ME 04401			
For <u>APP FEE BAILYVILLE - 5670</u>		MP	
MICR Line: ⑆2⑆1⑆28849⑆1⑆ 1900002⑆156606⑆8736			
OM 06A 1776 14 1442			

Harland Clarke

Two checks Received

13767⁰⁰
 60⁰⁰

13827

13560 ILF

267 Licence Fee